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HIGH COURT OF CHHATTISGARH : BILASPUR

Writ Petition No. 902 of 2003

Single Bench:- Hon'ble Shri Justice Dhirendra Mishra

Petitioner :- **Ms. Chitrarekha Kabre**
Resident of D-8, Sector 4 Devendra Nagar,
RAIPUR -492001 (C.G.)

Vs.

Respondents :-

1. **The Union of India, Represented by The Secretary to the Government of India, Department of Secondary Education & Higher Education, The Union Ministry of Human Resource Development, C Wing, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi- 110001**

2. **The Foreign Secretary to the Government of India The Union Ministry of External Affairs South Block, New Delhi-110011**

3. **The Secretary (Posts) to the Government of India Department of Posts, India The Union Ministry of Communications Dak Bhawan, Sansad Marg, New Delhi-110001**

4. **The Indian Institute of Technology, Kharagpur, Represented by its Director P.O. Kharagpur Technology, Kharagpur- 721302 (W.B.)**

5. **The State of Chhattisgarh, Represented by The Chief Secretary to the Government, Mantralay, Raipur-492001 (C.G.)**

Petitioner in person.
Shri Thakur Vijay Singh, Assistant Solicitor General of India for Respondents No. 1 to 3.
Shri V.V.S. Murty, Dy. Advocate General for Respondents No. 4 and 5.

O R D E R
(Delivered on 20/07/05)

The petitioner has filed the instant petition for issuance of writ of Mandamus to the respondents to pay damages of Rs. 51,00,000/- for causing her professional set back, loss of carrier opportunities, substantial financial loss, humiliation, mental agony, harassment etc and for a direction to conduct enquiry to the problems faced by the Indian scholars such as the petitioner who are exploited in the foreign country.

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2. The petitioner was Assistant Professor in the Indian Institute of Technology, Kharagpur. She did her post graduation in Building Engineering & Management from the school of Planning and Architecture, New Delhi. Respondent No. 1 invited applications for Australian Development Cooperation Scholarship, 1997, Australia (for brevity "ADCOS, 1997") for Masters Degree and for Ph.D. for their study in Australia. The application of the petitioner was duly forwarded by respondent No. 4 in March 1996 and accordingly No Objection Certificate was also given for attending interview at New Delhi clearly mentioning that she shall be given extra ordinary leave in the event of her selection for this Scholarship. However, the petitioner tendered her resignation in August 1996 and her resignation was accepted w.e.f. 17th October 1996 by respondent No. 4. The petitioner was selected by respondent No. 1 for ADCOS, Scholarship, 1997 for perusing her higher studies for Ph.D. degree in the University of Queensland, Australia. After selection for the said Scholarship, a bond for stipendiary under ADCOS, 1997 was executed by the petitioner and her two sureties, containing certain conditions and in violation of which the petitioner was to pay a sum of Rs. 20,000/-. The duration of award was 46 months commencing from 13th January 1997 until December 2000. The petitioner joined the course and submitted her Ph.D. thesis with the University of Queensland, Australia for examination on 21.02.2000 and thereafter she returned India on 24.03.2000.

3. From the voluminous pleadings in the original petition and two subsequent rejoinders filed by the petitioner, the case of the petitioner can be summarized as under.

1) That, she is a gold medalist and was engaged in important research work which has been acknowledged and appreciated by the Scientists of the world over. Her work was published in the renowned international scientific journals.

2) That, Respondent No. 1 taking into consideration her outstanding carrier selected her for ADCOS, 1997 Scholarship for perusing her higher studies for Ph.D. degree in University Queensland, Australia.

3) That, the power to forward the application for the above

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Scholarship was vested with the Chairman of respondent No. 4. However, the name of the petitioner was forwarded by the Dean (Faculty & Planning) who has no authority to forward the application of the petitioner.

4) That, the petitioner was ill treated by her Head of the Department in the emergency faculty meeting dated 07.08.1996 as a result of which she tendered her conditional resignation by giving three months notice commencing from 12th August 1996. However, her conditional resignation was accepted and approval of the same was conveyed to her vide order dated 13.09.1996 w.e.f. 17.10.1996 and on that date she was illegally and forcefully removed from her office.

5) That, the resignation tendered by her was obtained under duress which is no resignation in the eyes of law and the acceptance of the resignation is also illegal as the Board of Governors of respondent No. 4 being the appointing authority of the petitioner is only vested with the power to accept the resignation of the petitioner.

6) That, respondent No. 4 have literally removed the subject Computer Aided Design from the Architecture curriculum and the research areas in violation of the policies of institute.

7) That, the application of the petitioner for ADCOS, 1997 Scholarship for undertaking Ph.D. course was accepted and she was offered the said course and she had to accept the offer of the Scholarship for the said course under economic duress as she was illegally made unemployed by respondent No. 4 who accepted her conditional resignation.

8) That, the letter of award of ADCOS, 1997 for perusing higher studies relating to Ph.D. degree at University of Queensland, Australia enumerated the facilities that was available to the petitioner from the Government of the donor country. However, this did not contain that the petitioner was required to execute any bond in favour of the respondent No. 1. However, respondent No. 1 vide its letter dated 23.12.1996 informed the petitioner regarding the facilities attached with the Scholarship to be made available from the Government of the donor country and further made a condition that visa clearance certificate will be given by respondent No. 1 only after execution of the bond and submission of the

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documents mentioned in paragraph-4 of the above letter. Thus, she was made to execute the said bond under economic duress as she was unemployed after her resignation was accepted by respondent No. 4. Thus, the bond which was executed by her and submitted to respondent No. 1 was obtained under duress and for the same reason it is illegal, unconstitutional, unfair, unreasonable and unconscionable.

9) That, the Clause 'A' to 'K' of the impugned bond is without any authority as the donor country i.e. Australia has not placed any obligation on the petitioner to refund to the Govt. of India the amount spent by it upon her in the event of violation of conditions of the bond.

10) That, after executing the bond on 06th January 1997, she joined the course in the University of Queensland and as per conditions of the bond, she submitted her quarterly progress report in prescribed proforma which was duly counter signed by her supervisors at the University and Indian Mission in Australia. In one of such quarterly reports dated 24.06.1999, the supervisors made false and incorrect report regarding her research and because of lack of provision, the petitioner did not have the opportunity to reciprocate the false report in the quarterly progress report.

11) That, on 26th August 1999, there was an attempt on her life when she was returning from University and she was saved by her associate namely Shri T.K.Ghoshal who sustained severe injuries and remained medically unfit for a period of six months. This incident was reported to the Queensland police. However, she was not provided with the crime number or the acknowledgement receipt of the crime report. She also intimated this incident to the High Commission of India but the High Commission of India did not provide any assistance to the petitioner in violation of the direction as provided in her Passport. Though, she had an option to abandon the research work and suspend the award as per conditions of the award provided by the AUSAID in their offer letter but she could not abandon it midway because of illegal condition of the bond as condition 'e' of the bond imposed an obligation on the petitioner to return India only after completing the course for which she was selected.

12) That, the petitioner completed her research and submitted her thesis on 21.01.2000 for examination in University at Queensland, Australia. This fact was communicated to the High Commission of India. After submission of the thesis, the petitioner requested time and again for conducting oral examination as per schedule in the end of March 2000. She claimed intellectual property right including copy right to ownership of her thesis as she apprehended that the same may be published or produced by others without her written consent and due acknowledgement. She requested for conducting oral examination within stipulated period after submission of thesis as per rules failing which return travel arrangement for India to be made. However, when she was not provided the air fare for home return, she herself returned back to India on 24th March. The petitioner was within her rights and she was duty bound to leave Australia and return to her country of citizenship within five days after successful completion of academic programme. The petitioner informed about her departure to the Director General of AUSAID, High Commission of India, University of Queensland and the Education Secretary of respondent No. 1 and requested respondent No. 1 to discharge her sureties from the conditions of the bond.

13) That, respondent No. 1 vide memo dated 06.01.2002 demanded a sum of Rs. 20,000/- against the impugned bond on the ground that she returned to India without completing her Ph.D. course and as such violated the condition 'e' of the bond and therefore, she was liable for refund of the bond money along with interest. Thus, this action of respondent No. 1 amounts to arbitrary exercise of powers by respondent No. 1 which causes harassment and mental agony to the petitioner. That respondent No. 3 resorted to wrongful censorship and intercepted the mail of the petitioner with a view to impede her research in India.

14) That, the petitioner and her associate Shri T.K.Ghoshal have threat to their lives from the foreign agencies and their links in India. She has alleged in the petition that she was wrongfully restrained, abused and intimidated and her pilot project related to her research at Raipur was sabotaged. However, when she went to the police station to lodge a

report about the same, the police station refused to register FIR. However, on her complaints to the superior authorities of respondent No. 5, the State Govt. of C.G., three FIRs were registered by the police though reluctantly and out of these three reports, two cases have already been closed.

4. On the basis of the above allegations and from the series of facts narrated in the petition and rejoinders, the petitioner submits that it is evident that respondent No. 1 and its instrumentalities as also respondents 4 and 5 have utterly failed in discharge of their public duties causing enormous harassment to her for no fault of her and this Court while exercising powers under Article 226 of Constitution of India, should award compensation as prayed by the petitioner against the State for violation of her fundamental rights by the servant of the State.

5. The respondents 1 to 3 in their joint return have denied the allegations of the petitioner and submitted that the petitioner was awarded scholarship for Ph.D. under ADCOS, 1997 for a total duration of 46 months w.e.f.13.01.1996 to 02.12.2000. It is admitted by the respondents that the petitioner submitted her Ph.D. thesis in the University of Queensland, Australia on 21.01.2000 and thereafter she waited for oral examination. On the allegations of the petitioner that attempt was made on her life during her stay at Australia, it is submitted that the allegations of the petitioner was duly communicated to the Indian Mission in Australia with a request to resolve her difficulties and ensure her safety and correspondence to this effect has been filed along with the return. After arrival of the petitioner in India on 24.03.2000, the respondents received communication from University of Queensland dated 29.03.2000 and by which it was informed that the petitioner left Australia without informing the Australian and Indian authorities on 24.03.2000. The sequence of events after submission of thesis by the petitioner has been chronologically described in this return as per information of the University of Queensland and according to which after submission of the thesis by the petitioner, the same was sent to the examiners. The date for oral examination was fixed for the end of April and request for nomination of convener was sent to the Faculty Dean. The nomination of convener was approved on 21.02.2000. The report of the final examiner was received on 15.05.2000. It is also mentioned that the Liaision Officer of the AusAID sent a letter to the petitioner on 12.05.2000 requesting her to return her fare tickets for reimbursement of her homeward travel. It is also pointed out in the return that after examining the thesis submitted by the petitioner, the examiners

recommended that the petitioner should revise the passages. The Thesis Office at Australia attempted to send four temporary copies of the thesis back to the petitioner but however, as phone number of the petitioner in India was not available with the University authorities, thesis could not be sent to the petitioner. However, on 21.07.2000 revise passages letter was sent to the petitioner explaining that the thesis could not be sent until phone number is supplied by the petitioner. The petitioner made request for return of her thesis but the thesis remained with the Thesis Office as the petitioner refused to give her telephone number and physical address in India where the thesis could be couriered. It is stated by the respondents that the scholarship was provided to the Indian scholars for studies abroad as and when offers are received from the Foreign Governments under various programmes. For this purpose offers are invited by giving wide publicity in the leading newspaper and in this case also the scheme was widely published and offers were invited and respondent No. 1 at no point of time misled the petitioner regarding the scholarship scheme. It is further mentioned in the return that all the complaints of the petitioner were duly forwarded to the Indian High Commission at Australia for redressal. It was subsequently forwarded by respondent No. 2 to the Australian authorities. In response to the initiatives by the respondents, the Australian authorities assured that they would provide the petitioner best possible services for safeguarding her interest and safety at Australia. However, the petitioner left Australia and returned to India on 24.03.2000.

6. In support of their reply the respondents have filed the letter from Indian High Commission enclosing the copies of the letters from the Contract Officer of the AusAID and Director of International Education Directorate clarifying the position of the University of Queensland and the AusAID. Another letter dated 24th October 2000 addressed to the petitioner by the University of Queensland in response to the grievances stated in her communication dated 06th September 2000 and various other letters from the authorities of the University of Queensland has been annexed along with the return.

7. The respondent No. 4 in its return has denied the allegations of the petitioner and mentioned that the petitioner was given No Objection Certificate on 08th May 1996 and the Institute had mentioned in that Certificate that in the event of her selection for the said Scholarship, she would be granted extra ordinary leaves as per Institute rules. However, the petitioner was not entitled for gratuity as per statutory provision of the

Institutes of Technology Act, 1961 as she herself resigned from the service. It is also stated by respondent No.4 that the Board of Governors has delegated powers and authority to the Director of respondent No. 4-Institution and the Director of the Institution being the competent authority had accepted petitioner's resignation. It is submitted that the petitioner has claimed damages for the alleged and negligent act of the respondents which can be only established in a properly constituted civil suit as evidence is necessary for establishing the illegality.

8. Respondent No. 5 in its return has submitted that since the petitioner has not sought any relief against this respondent except police protection which has already been provided to her, the petition be dismissed against respondent No. 5. The allegations made by the petitioner in her petition against this respondent has been denied. It is submitted that all the complaints of the petitioner has been duly investigated and after investigation, the police found no substance in the reports. It is also submitted that the petitioner in her petition has raised disputed questions of facts which require detailed evidence which can be done by the Court of competent civil jurisdiction and thus, the writ petition is not maintainable on the basis of such allegations and accordingly, the same deserves to be dismissed.

9. The petitioner has arrayed five respondents and independent cause of action against the respondents relates to different periods. First of all, I propose to deal with the grievances of the petitioner as against respondent No. 4, the Indian Institute of Technology, Kharagpur.

10. According to the allegations in the petition the petitioner was teaching as Assistant Professor of respondent No. 4 and applied for Australian Development Corporation Scholarship, 1997 vide her application of annexure P/55 on 15.03.1996 as the IIT Management desired that the faculty members of the Institute should obtain Ph.D. degree in their respective fields in order to contribute significantly for the educational development of the Institute and as she was keenly interested to do the research in the above subject, her application was duly forwarded by her Head of the Department and the petitioner has challenged the very authority of Head of the Department who forwarded the same on the ground that the only Chairman was competent to send members of staff for training or for a course of instruction outside India as per statute 7(2) of the Statute. Relying upon various judgments of Hon'ble Apex Court and excerpts from the administrative law by Sir William Wade (8th edn. 2000)

chapter 11, it is argued that the application has not been duly forwarded by the competent authority and therefore her name could not have been considered for the above scholarship.

11. I am not able to accept the above arguments of the petitioner as she is estopped from challenging the authority of her Head of the Department to recommend her application for consideration when the same was done at her own instance and she has after such recommendation participated in the interview and was selected for the course, therefore now it is not open to the petitioner to challenge the same on the ground of authority after almost seven years of her selection after completing the course.

12. The other grievances of the petitioner are that she was restricted to impart the state-of-the-art knowledge to the students which is infringement of her statutory rights and opposed to policy of Parliament as described in Institute of Technology Act, 1961. That, on 07.08.1996 in the emergency faculty meeting of respondent No. 4, she was offended by the Head of the Department and his associates as a result of which she tendered conditional resignation by giving three months notice commencing from 12th August 1996 and the same was obtained under duress, therefore it was unenforceable by law. She further alleges that as per conditions No. 12(II) of her order of appointment, she could be terminated from her services by the Board of Governors of the respondent No. 4 because Board of Governors is the only appointing authority, however, resignation was accepted by the Director who does not possess the power, authority, right and jurisdiction to accept the conditional resignation as per statute 15(8) of respondent No. 4.

13. The respondent No. 4 in its return has submitted as the petitioner vide letter of Annexure R-4/1 dated 09.08.1996 in which she stated that she had tendered the resignation and instructed to treat the same as notice with effect from 12th August 1996 as per institute rules and in pursuance of the same, respondent No. 4 vide order dated 13th September 1996 accepted her resignation with effect from forenoon of 18th October 1996. After the resignation all the dues payable to the petitioner was disbursed to her through cheques which was duly received by her as per certificate given by banker, the State Bank of India vide document of Annexure R-4/4. The Provident Fund was also calculated vide documents of Annexures R-4/5 and 4/6.

14. Learned counsel for respondent No. 4 submits that after tendering her

resignation, the petitioner did not apply for withdrawing the same during the period of notice and on the other hand, received the amount payable to her after acceptance of her resignation, therefore, it was now not open to her to challenge the resignation on the ground that the same was conditional and she tendered under duress after more than six years of its acceptance .

15. The petitioner places her reliance on the judgment of the Hon'ble Supreme Court reported in AIR 1984 SC 541 in the matter of P.K.Ramchandra Lyer Vs. Union of India which was subsequently followed in Dr.Prabha Atri Vs. State of U.P. reported in 2003 Lab. I.C. 375. However, the petitioner does not dispute that she has tendered her resignation but she submits that the same was obtained under duress and it was the conditional resignation, therefore, it was not resignation in the eyes of law.

16. However, from the documents submitted by the petitioner, I find that even after submission of resignation vide document of Annexure P/62, she reiterated her request of acceptance of her resignation vide application dated 19.08.1996 of Annexure P/63 and requested to relieve her from service w.e.f.12th November 1996 and release all her dues as P.F. etc. with immediate effect. She again addressed a letter of Annexure P/66 dated 09.09.1996 to the Director in which she again repeated her prayer to accept her resignation and relieve her from her charge from 13th November 1996 on expiry of her notice and in view of the above background her resignation was accepted and she was released w.e.f.17th October 1996. However, she did not withdraw the same during the notice period and on the contrary, she received the dues payable to her and raised the grievance in the petition that part of her dues is still unpaid. In para 5.19 of her petition, she has also claimed entitlement of gratuity from respondent No. 4, thus in the light of the above admitted facts acceptance of petitioner's resignation by respondent No. 4 cannot be challenged by the petitioner on the ground that the same was obtained under duress and was accepted by a person not competent and the judgments cited above by the petitioner have no application in the instant case. The contention of the petitioner that her resignation was accepted malafidely by respondent No. 4 is also not acceptable in view of the fact that respondent No. 4 while recommending her application for ADCOS, 1997 vide memo of Annexure P/57 had clearly mentioned that in the event of petitioner's selection, she will be entitled for extra ordinary leave according to the rules of the institute and the petitioner was herself

informed that if she is selected, the institute will grant her extra ordinary leave (without pay and allowances).

17. So far as the entitlement of gratuity and other dues of the petitioner is concerned, she is at liberty to raise the same before the appropriate forum and this disputed fact cannot be gone into under the writ jurisdiction.

18. Coming to the other grievances of the petitioner against respondents 1, 2 and 3, from perusal of the pleadings and written argument of the petitioner, it is found that the petitioner has alleged that she was selected for the ADCOS 1997 by the Australian agency AusAID along with the detailed conditions of award which is annexed as Annexure P/74 and the same was accepted by the petitioner on 06.12.1996 under economic duress because her resignation was wrongly accepted by respondent No. 4. She has further submitted that the offer dated 03.12.1996 did not mention that she would be required to execute a bond with the Govt. of India, however, the Govt of India, respondent No. 1 vide a letter dated 23.12.1996 of Annexure P/1 intimated the petitioner that she will be required to fulfill the conditions from 'a' to 'f' enumerated in the said letter and as per condition 4-(a) she was required to execute a bond with the President of India. The bond of Annexure P/2 was executed by the petitioner under economic duress when she was illegally and wrongfully made unemployed vide order of Annexure P/69. The petitioner submits that in view of the above, the bond of Annexure P/2 is illegal unconstitutional, unreasonable, unfair and unconscionable as per settled law laid down by the Apex Court in the matter of L.I.C. of India Vs. Consumer Education and Research Centre reported in AIR1995 SCW 2834.

19. However, on facts the above contention of the petitioner is not sustainable as her application of Annexure P/55 clearly mentions that she was keenly interested to do the research in the above subject matter and she had been preparing for the same by preserving her leaves for educations purpose only and the opportunity was given to her through her institute who recommended her case vide Annexure P/56 and in the letter of recommendation it is clearly mentioned that she would be granted extra ordinary leaves (without pay and allowance) if she was selected for the above ADCOS, 1997. Thus, it cannot be said that the petitioner was made to accept the conditions as the parties to the bond were not having equal bargaining power.

20. From the facts pleaded by the petitioner and documents annexed, it is clear that the petitioner applied for the above scholarship, her application was forwarded by the institute with assurance that she will be entitled for extra ordinary leaves in case her case was considered by the Govt. of India and thereafter she was selected for higher studies for ADCOS 1997 and the petitioner was informed by respondent No. 1 that she will be able to avail this scholarship only on the condition of her executing a bond of Annexure P/2 and further fulfilling the conditions enumerated from 'a to f' in the document of Annexure P/1. The petitioner who is a qualified Assistant Professor signed the above documents with open eyes understanding the implications of the same and therefore it is not open to her now to challenge the same on the ground that she was forced to sign the same as she was unemployed at the relevant time.

21. I have also held in the foregoing paragraphs that there is nothing on record to show that the petitioner was compelled to submit her resignation under compelling circumstances and further considering subsequent conduct of the petitioner it has already been held that the acceptance of the resignation cannot be faulted, even otherwise conditions of Annexure P/1 viz (a) execution of a bond, (b) medically examined and found fit, (c) NOC from the employer, (d) undertaking that the allowances or part thereof received by the petitioner shall not be used for any other purposes and (e) submission of quarterly reports regarding performances through the concerned Indian Mission, cannot be termed to be onerous and unconscionable.

22. The petitioner has challenged the bond of Annexure P/2 on the ground that she did not receive any money from respondent No. 1 for ADCOS, 1997, therefore she had no obligation to fulfill the conditions of the bond from serial No. (a) to (k) and respondent No. 1 cannot enforce the bond against her.

23. The petitioner was granted scholarship by the donor country i.e. Australia after she was nominated by respondent No. 1 and therefore, the authority of respondent No. 1 in imposing conditions upon the students who were nominated for scholarship by the Govt. of India for successful completion of the course, can not be challenged by such beneficiary on the ground that the expenses are being borne by the donor country. From perusal of the conditions incorporated in the bond, it is evident that the Govt. of India has taken due care that the bounded stipendiary completes the course within time and return to India after successful completion of the course

and further complies with the instructions regarding training and studies given to her by the representative of the Govt. and involves herself in her studies and conducts properly and after return intimates her arrival to the Govt. of India within two weeks and other conditions such as communicating the concerned High Commissioner, Indian Mission, if contacts any infectious disease, to make refund any overpayment during the course of her stay, training and transit abroad and any loan which may be granted to her by the Government. All these conditions have been incorporated in the bond with a view to safeguard the interest and honour of the nation as also of nominee and the same cannot be termed unconscionable.

24. The petitioner submits that the bond has virtually made her slave and bounded labour. However, submission of the petitioner in this regard is unfounded inasmuch as the petitioner was selected for the above scholarship by the Union of India and after successful completion; she was to be awarded Ph.D. degree and thus, the petitioner had an opportunity to pursue her higher studies and obtain Ph.D. degree from the renowned University as she was nominated by the Govt of India for this purpose and therefore, the petitioner was made to execute a bond of Annexure P/2, it cannot be said that the petitioner became bounded labour. From perusal of the documents submitted by the petitioner and the respondents, it appears that even during the stay of the petitioner in her University, she had problems with her guide and the relationship between the petitioner and her academic supervisor had been deteriorated whereupon on the request of the petitioner, the supervisor was changed.

25. She has also raised the dispute that during her stay at Australia, an attempt on her life was made on 26th August 1996 while she was returning from the University. However, she was saved by Mr.T.K.Ghosal, who got severely injured in the process and this incident was duly communicated by her to the High Commission of India and requested for help, but she was not provided any protection or assistance and thus, respondent No. 1 and 2 have failed in their duties which they owed towards Indian citizens who is an Indian Passport holder.

26. The respondents 1 to 3 in their reply have submitted some documents to demonstrate that each and every complaint addressed by the petitioner was duly forwarded to the Counsellor, High Commission of India, Canberra, Australia and documents of Annexure R-1,2,3,/6, 7, 8, 9 and 10

are various correspondences addressed by the authorities of respondent No. 1 to the counsellor at Australia. However, in response to the letters addressed by respondent No. 1, the matter was clarified by the University of Queensland vide document of Annexure R-1,2,3/15 and 16. In any case the dispute raised by the petitioner in this regard that she was not provided protection during her stay at Australia, is a disputed question of facts as there are allegations and counter allegations from both the sides and the same cannot be adjudicated in this petition.

27. It is not disputed that the petitioner was to be awarded scholarship for Ph.D. under ADCOS 1997 for total duration of 46 months with effect from 13.01.1996 to 02.12.2000. However, thesis was submitted by the petitioner on 21.01.2000 and after submission of the thesis the same was sent to the examiners by the University on 03.03.2000 and report of the final examination was received on 15.05.2000. However, in the meanwhile, the petitioner had already left for India on 24.03.2000. The respondents alleged that the petitioner left for India without intimating the University authorities at Australia whereas the petitioner submits that she sent intimation of her return through posts.

28. The grievance of the petitioner is also that though she was promised return air fare but she was not provided the same by the respondents.

29. On the other hand, the respondents have filed a document being a letter of the AusAID dated 12.05.2000 requesting the petitioner to return her fair tickets for reimbursement for her home travel. It is also found from the documents that final examiners after examining the thesis of the petitioner recommended that the petitioner should revise some passages and University authorities attempted to send the temporary copies of the thesis back to the petitioner for revision but the same could not be done because the petitioner did not leave her phone number in Australia and a letter dated 21.07.2000 was sent by the University authorities to the petitioner in this regard.

30. Thus, the petitioner on the basis of those facts claims that it was the bounden duty of the Govt. of India to protect the life and interest of its citizen abroad and the respondent No.1 has failed in this regard. It is further argued that even after attempt on her life, the petitioner could not return India because of the clause contained in the bond of Annexure P/2 which provides that in case of return without completing the course, she was liable to pay the amount under bond, therefore, she was made to

undergo mental torture as she was forced to live in Australia under the adverse situation.

31. As already observed the petition is based on highly disputed facts and the same cannot be decided on the basis of material available on record and this Court finds itself unable to reach to a definite conclusion on the basis of the pleadings and documents filed by the respective parties.

32. Similar allegations have also been made against respondent No. 3 wherein it has been stated that the banking transaction of the petitioner was being intercepted or inordinarily delayed in order to deprive her of her hard earned fund at the time of dire need and her communications were also intercepted by respondent No. 3 and they did not provide the documents.

33. Allegations against respondent No. 5 is that after return from Australia while she was staying in Maharashtra Mandal, Raipur, a working woman Hostel, she was compelled to vacate the Hostel on the reference of some instructions received from the Govt. of India and the petitioner was wrongfully restrained, abused and intimidated and she submitted a written complaint but respondent No. 5 failed to provide any protection or assistance to get justice. All these allegations have been highly disputed by the concerned respondent.

34. Citing various judgments of the Hon'ble Apex Court and constitutional provisions, the petitioner has argued that the treatment given to her by the University of Queensland and the Union of India amounts to trafficking of the woman and high reputed scientists from this nation to another nation which is detrimental to the national interest and against public policy and the petitioner is a victim of the same. Therefore, she should be adequately compensated for the wrongs done to her because of omission and commission on the part of the authorities of the respondents and therefore a writ of mandamus is prayed directing the respondent No. 1 to pay damages at the rate of R. 51,00,000/-.

35. Learned counsel for the respondents have disputed the facts averred in the petition as also the maintainability of the petition on the ground that the petition is based on different cause of actions against different respondents which arose at different points of time whereas the resignation was accepted by respondent No. 4 in the year 1996 and cause of action if any arose to the petitioner against Union of India for not providing adequate protection to her during her stay at Australia while she

was pursuing her studies and cause of action against respondent No. 5 arose after her return to India when she stayed at Raipur. Other objection raised by respondent No. 4 regarding territorial jurisdictions was that no cause of action arose against respondent No. 4 within the jurisdiction of this Court and therefore the petition is not maintainable against respondent No. 4 and since no relief has been claimed against respondent No. 4 by the instant petition, respondent No. 4 is formally pleaded as party. Similar are the objections of respondent No. 5.

36. Apart from the objections of respondents regarding the maintainability of the petition, this Court has already held in the foregoing paragraphs that it was not open to the petitioner to challenge the acceptance of her resignation by the respondent No. 4 without making any efforts to withdraw the same during period of notice and after claiming the dues payable after acceptance of resignation, it has also been held in the foregoing paragraphs that the conditions enumerated in Annexure P/1 and the bond of Annexure P/2, cannot be challenged as she is the signatory to the same after executing the same and as she pursued her studies abroad, the bond and the conditions of Annexure P/1 cannot be termed unconscionable. Therefore, all theses disputed questions of facts cannot be adjudicated in the writ petition.

37. Thus, on the basis of the aforesaid discussions, I am of the opinion that the present petition is devoid of merits and it deserves to be dismissed. Accordingly, it is dismissed.

Sd/-
DHIRENDRA MISHRA
Judge